IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

TUESDAY, THE 13TH FEBRUARY 2007 / 24TH MAGHA 1928

CRL.A.No. 814 of 2006()

AGAINST THE ORDER IN CRLP.229/2006 Dated 05/04/2006
ST.4411/2003 of JUDL. MAGISTRTE OF FIRST CLASS COURT-III, THRISSUR

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APPELLANT: COMPLAINANT:

M/S. POORAM KURIES & LOANS (P) LTD.,
CHEMBUKKAVU, THRISSUR, REPRESENTED BY ITS
LITIGATION CLERK, SRI.SURESH BABU,
S/O. KONCHATH MADHAVAN NAIR, PUTHURKKARA,
THRISSUR DISTRICT.

BY ADV. SRI.JIJO PAUL

RESPONDENTS: ACCUSED & STATE:

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1. P.R. ASOKAN, S/O. RAMAN,
PADAPARAMBIL, CIVIL LANE, AYYANTHOLE P.O.,
THRISSUR TALUK.

2. THE STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM, KOCHI-31.

BY PUBLIC PROSECUTOR SRI.PUZHAKKARA MUHAMMED.

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 13/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.M. JAMES, J.

Criminal Appeal No. 814 of 2006

Dated this the 13th February, 2007.

J U D G M E N T

This appeal is filed, on obtaining leave, challenging the dismissal of the complaint and acquittal of the accused, in S.T.No.4411/2003, on the file of the Judicial First Class Magistrate Court-III, Thrissur. As the appellant was absent on the appointed date, and there being no representation from the counsel, the dismissal took place under Section 256(i) Cr.P.C.

2. The learned counsel appearing for the appellant, complainant, submits that the case was posted for the appearance of the accused, and there was no appearance from him. Therefore, the presence of the complainant for continuance of the proceedings was not required. Counsel, therefore, challenge the dismissal of the complaint.

3. Though the service is complete in respect of the first respondent, accused, there is no appearance. Hence, after hearing the learned counsel appearing for the appellant, complainant, I am of the opinion that an opportunity be given to both the parties to agitate the matter before the court below.

4. In the result, the appeal is allowed. The impugned order, dated 6.1.2006, is set aside. S.T.No.4411/2003 is restored to the file of the Judicial First Class Magistrate Court-III, Thrissur.

5. The parties shall appear before the court below on 13.3.2007.

6. The case being of the year 2003, the learned Magistrate shall give priority for the disposal of the same, and in any case, this shall be disposed of, within two months from the date of appearance of the first respondent, accused.

J.M. JAMES,
JUDGE

nj.